

HOWARD ROME MARTIN & RIDLEY LLP

1900 O'FARRELL STREET, SUITE 280  
SAN MATEO, CA 94403  
TELEPHONE (650) 365-7715

1 **TODD H. MASTER [SBN 185881]**

[tmaster@hrmrlaw.com](mailto:tmaster@hrmrlaw.com)

2 **ROBERT J. GUNDERT [SBN 104486]**

[rgundert@hrmrlaw.com](mailto:rgundert@hrmrlaw.com)

3 **HOWARD ROME MARTIN & RIDLEY LLP**

1900 O'Farrell Street, Suite 280

San Mateo, CA 94403

Telephone: (650) 365-7715

Facsimile: (650) 364-5297

Attorneys for Defendants

CITY OF MENLO PARK and DAVE BERTINI

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO

MICHAEL ZELENY, an individual

Plaintiff,

vs.

EDMUND G. BROWN, JR., an individual, in  
his official capacity, et al.

Defendants.

Case No. 17-cv-07357-RS (TSH)

**DECLARATION OF NICOLAS A. FLEGEL  
IN OPPOSITION TO PLAINTIFF  
MICHAEL ZELENY'S PARTIAL MOTION  
FOR SUMMARY JUDGMENT**

**Date: March 18, 2021**

**Time: 1:30 P.M.**

**Judge: Hon. Richard Seeborg**

I, NICOLAS A. FLEGEL, declare:

1. I have personal knowledge of the matters set forth in this declaration and, if called  
as a witness, could and would competently testify thereto.

2. I am a partner at the law firm of Jorgenson, Siegel, McClure & Flegel, LLP  
("JSMF") in the City of Menlo Park, California ("City"). I have been employed at JSMF since  
2005.

DECLARATION OF NICOLAS A. FLEGEL IN OPPOSITION TO PLAINTIFF MICHAEL ZELENY'S MOTION  
FOR PARTIAL SUMMARY JUDGMENT; Case No. 17-cv-07357-RS

HOWARD ROME MARTIN & RIDLEY LLP

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SAN MATEO, CA 94403  
TELEPHONE (650) 365-7715

3. JSMF has served as City attorney for the City of Menlo Park for decades, assisting the City in a variety of legal matters. At all times relevant to the instant litigation, I have represented the City in a variety of matters. I have provided legal services to the City over the course of my career. In such capacity I have access to City administrative records on a regular basis, such as the records attached hereto as a collective Exhibit A.

4. Records such as the attached e-mails and notices are prepared by the City Clerk in the regular course and scope of course of her or his job duties, at or about the time of the dates shown thereon. Similarly, as part of her or his job duties, the City Clerk retains within City files the responses to such communications, such as those shown within the attached Exhibit A.

4. Ms. Pam Aguilar was City Clerk for Menlo Park at the time that the records within Exhibit A were prepared or received. I have known Pam Aguilar over the course of years and have found her to be reliable and trustworthy with regard to the prompt and accurate preparation of City records, including communications and notices, and with regard to the retention of responses to communications, such as those within Exhibit A.

5. As the attached records show, on or about September 16, 2016, plaintiff provided notice of his intent to appeal the decision of the City Manager, Alex McIntyre, with regard to his special event permit application. The attached records also show that over the course of the next nine months, City Clerk Pam Aguilar attempted to schedule the appeal hearing before the City Council through written communications with plaintiff and his attorney.

6. The attached records show that the hearing before the City Council was set but then taken off calendar on various occasions due to plaintiff's unavailability or non-responsiveness.

I declare under penalty of perjury under the laws of the State of California and the United States of America that the foregoing is true and correct and that this declaration was executed on this 4th day of February 2021, at Menlo Park, California.

Nicolas A. Flegel

Exhibit A

**From:** [Michael Zeleny](#)  
**To:** [Greg Rubens](#); [Mariano, Nicole S](#); [McIntyre, Alex D](#)  
**Cc:** [dwa@aaglaw.com](#)  
**Subject:** Re: Special Event Permit Application Appeal Decision  
**Date:** Friday, September 16, 2016 2:01:49 PM

---

Dear Mr McIntyre,

Please take note of our intent to appeal your denial to the Menlo Park City Council, and advise us on the procedure for doing so.

---

[Michael@massmeans.com](#) [Zeleny@post.harvard.edu](#) | [harvatus.livejournal.com](#) | [subrah.com](#)  
7576 Willow Glen Rd, Los Angeles, CA 90046, U.S.A. | voice:323.363.1860 |  
fax:323.410.2373

**Wronged by the high and mighty? Cut them down to size with legally safe and ethically sound degradation of unworthy moguls and scrofulous celebrities.**

On Mon, Sep 12, 2016 at 5:43 PM, Mariano, Nicole S <[nsmariano@menlopark.org](mailto:nsmariano@menlopark.org)> wrote:

Good evening Mr. Zeleny,

Please see attached letter from Menlo Park City Manager Alex D. McIntyre.

Thank you,

*Nicole Mariano*

CITY OF MENLO PARK

701 Laurel Street

Menlo Park, CA 94025

Phone: [650.330.6610](tel:650.330.6610)

Email: [nsmariano@menlopark.org](mailto:nsmariano@menlopark.org)



**From:** [Aguilar, Pamela I.](#)  
**To:** [michael@massincans.com](mailto:michael@massincans.com)  
**Cc:** [dwa@agzlaw.com](mailto:dwa@agzlaw.com); [Harada, Ielena V.](#); [Mariano, Nicole S](#)  
**Subject:** Notice of Zeleny Appeal Hearing - Menlo Park  
**Date:** Wednesday, October 12, 2016 10:49:00 AM  
**Attachments:** [20161012 - Zeleny letter and notice.pdf](#)

---

Mr. Zeleny,  
Attached is notice of your appeal hearing before the Menlo Park City Council on Tuesday, October 25, 2016 at 7:00pm. A hard copy is also en route to you via overnight mail.

*Pam Aguilar*  
City Clerk  
City of Menlo Park  
701 Laurel Street  
Menlo Park, CA 94025  
650.330.6620 | [piaguilar@menlopark.org](mailto:piaguilar@menlopark.org)

City Manager's Office



October 12, 2016

VIA email and U.S. Mail

Michael Zeleny  
7576 Willow Glen Road  
Los Angeles, CA 90046

**RE: Notice of Appeal Hearing**

Dear Mr. Zeleny,

Enclosed is notice of your appeal hearing before the Menlo Park City Council on Tuesday, October 25, 2016, at 7:00 p.m.

Sincerely,

Pamela Aguilar  
City Clerk

Cc: David W. Affeld  
Affeld Grivakes LLP  
Century Plaza Towers  
2049 Century Park E #2460  
Los Angeles, CA 90067



**PUBLIC HEARING NOTICE**

**Appeal to the City Council**

**NOTICE IS HEREBY GIVEN** that the City Council of the City of Menlo Park, California, will hold a Public Hearing to consider an appeal submitted by Michael Zeleny regarding the administrative decision denying the application of Michael Zeleny for a special event permit ("SEP") that was heard on August 11, 2016 at the Menlo Park City Hall with the Menlo Park City Manager, acting as the hearing officer. The Appeal to the City Council will be conducted as a de novo hearing.

City Staff will present for the City. The Appellant will have an opportunity to present evidence in support of the appeal to the City Council. All presentations will be made directly to the City Council. All questions of staff or the appellant will be made through the City Council. The City Council will determine the questions it deems relevant to its determination of the appeal.

**NOTICE IS HEREBY FURTHER GIVEN** that the City Council of the City of Menlo Park will hold this Public Hearing on Tuesday, October 25, 2016, at 7:00 p.m., or as near as possible thereafter, in the City Council Chambers of the City of Menlo Park located at 701 Laurel Street, Menlo Park, California, at which time and place interested persons may appear and be heard on the matter.

**NOTICE IS HEREBY FURTHER GIVEN** that if you challenge this matter in court, you may be limited to raising only those issues you or someone else raised at the Public Hearing described in this notice, or in written correspondence delivered to the City of Menlo Park at, or prior to, the Public Hearing.

DATED: Dated: October 12, 2016

Pamela Aguilar, City Clerk





**From:** David Affeld  
**To:** Aguilar, Pamela I; michael@massmeans.com  
**Cc:** Harada, Jelena V; Mariano, Nicole S  
**Subject:** RE: Notice of Zeleny Appeal Hearing - Menlo Park  
**Date:** Wednesday, October 12, 2016 11:37:39 AM

---

Mr. Zeleny underwent emergency surgery a few days ago and is still hospitalized. We will need to reschedule. Would mid-November work for the City? -- Dave Affeld

\* \* \*

This E-mail, along with any attachments, is confidential and may be privileged. If you have received it in error, please notify us immediately by reply e-mail and then delete this message from your system. Please do not copy it or use it for any purposes, or disclose its contents to any other person.

\* \* \*

David W. Affeld  
Affeld Grivakes Zucker LLP  
2049 Century Park East, Suite 2460  
Los Angeles CA 90067  
Tel.: (310) 979-8700  
Fax: (310) 979-8701



AFFELD GRIVAKES ZUCKER LLP

---

**From:** Aguilar, Pamela I [mailto:piaguilar@menlopark.org]  
**Sent:** Wednesday, October 12, 2016 10:50 AM  
**To:** michael@massmeans.com  
**Cc:** David Affeld <Dwa@agzlaw.com>; Harada, Jelena V <jvharada@menlopark.org>; Mariano, Nicole S <nsmariano@menlopark.org>  
**Subject:** Notice of Zeleny Appeal Hearing - Menlo Park  
**Importance:** High

Mr. Zeleny,  
Attached is notice of your appeal hearing before the Menlo Park City Council on Tuesday, October 25, 2016 at 7:00pm. A hard copy is also en route to you via overnight mail.

Pam Aguilar  
City Clerk  
City of Menlo Park  
701 Laurel Street  
Menlo Park, CA 94025  
650.330.6620 | [piaguilar@menlopark.org](mailto:piaguilar@menlopark.org)



**From:** Aguilar, Pamela I  
**To:** David Affeld; [michael@massmeans.com](mailto:michael@massmeans.com)  
**Subject:** RE: Notice of Zeleny Appeal Hearing - Menlo Park  
**Date:** Tuesday, October 18, 2016 9:53:00 AM

---

Hello gentlemen,  
I am following up to confirm that the October 25<sup>th</sup> date for hearing is postponed.

Pam  
City Clerk's Office | ext. 6621

---

**From:** Aguilar, Pamela I  
**Sent:** Thursday, October 13, 2016 9:41 AM  
**To:** 'David Affeld'; [michael@massmeans.com](mailto:michael@massmeans.com)  
**Cc:** McIntyre, Alex D; [grubens@adcl.com](mailto:grubens@adcl.com)  
**Subject:** RE: Notice of Zeleny Appeal Hearing - Menlo Park

Mr. Affeld,  
Thank you for your reply. The Council agendas for the rest of the year are compacted in a manner that we will not be able to reschedule until early next year. Let's keep in touch regarding dates that are mutually suitable.

Sincerely,  
Pam Aguilar  
City Clerk  
City of Menlo Park  
701 Laurel Street  
Menlo Park, CA 94025  
650.330.6620 | [piaguilar@menlopark.org](mailto:piaguilar@menlopark.org)

---

**From:** David Affeld [<mailto:Dwa@agzlaw.com>]  
**Sent:** Wednesday, October 12, 2016 11:40 AM  
**To:** Aguilar, Pamela I; [michael@massmeans.com](mailto:michael@massmeans.com)  
**Cc:** Harada, Jelena V; Mariano, Nicole S  
**Subject:** RE: Notice of Zeleny Appeal Hearing - Menlo Park

Mr. Zeleny underwent emergency surgery a few days ago and is still hospitalized. We will need to reschedule. Would mid-November work for the City? -- Dave Affeld

\* \* \*

This E-mail, along with any attachments, is confidential and may be privileged. If you have received it in error, please notify us immediately by reply e-mail and then delete this message from your system. Please do not copy it or use it for any purposes, or disclose its contents to any other person.

\* \* \*

David W. Affeld  
Affeld Grivakes Zucker LLP



**From:** [Aguilar, Pamela I](#)  
**To:** [David Affeld](#); [michael@massmeans.com](mailto:michael@massmeans.com)  
**Cc:** [grubens@adcl.com](mailto:grubens@adcl.com)  
**Subject:** RE: Notice of Zeleny Appeal Hearing - Menlo Park  
**Date:** Wednesday, November 16, 2016 4:14:00 PM

---

Hello gentlemen,  
This is to keep you updated that the City Council will approve its 2017 Council meeting schedule on December 6<sup>th</sup>. The proposed meeting dates in January and February 2017 are: January 10 and 24, February 7 and 28. Please note that these dates are subject to approval and can change, but hopefully this can assist with planning ahead for the hearing.

*Pam Aguilar*  
City Clerk  
City of Menlo Park  
701 Laurel Street  
Menlo Park, CA 94025  
650.330.6620 | [piaguilar@menlopark.org](mailto:piaguilar@menlopark.org)

---

**From:** Aguilar, Pamela I  
**Sent:** Tuesday, October 18, 2016 9:54 AM  
**To:** 'David Affeld'; [michael@massmeans.com](mailto:michael@massmeans.com)  
**Subject:** RE: Notice of Zeleny Appeal Hearing - Menlo Park

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*Pam*  
City Clerk's Office | ext. 6621

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**To:** 'David Affeld'; [michael@massmeans.com](mailto:michael@massmeans.com)  
**Cc:** McIntyre, Alex D; [grubens@adcl.com](mailto:grubens@adcl.com)  
**Subject:** RE: Notice of Zeleny Appeal Hearing - Menlo Park

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Sincerely,  
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**From:** [Aguilar, Pamela I](#)  
**To:** [David Affeld; michael@massmeans.com](#)  
**Cc:** [grubens@adcl.com](#)  
**Subject:** RE: Notice of Zeleny Appeal Hearing - Menlo Park  
**Date:** Monday, December 12, 2016 12:04:00 PM  
**Attachments:** [2017 council mtgs - approved.xls](#)

---

Hello, attached are the approved Council meeting dates for 2017. Please advise when we can reschedule the hearing.

Thank you!

*Pam Aguilar*  
City Clerk  
City of Menlo Park  
701 Laurel Street  
Menlo Park, CA 94025  
650.330.6620 | [piaguilar@menlopark.org](mailto:piaguilar@menlopark.org)

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**To:** 'David Affeld'; 'michael@massmeans.com'  
**Cc:** [grubens@adcl.com](mailto:grubens@adcl.com)  
**Subject:** RE: Notice of Zeleny Appeal Hearing - Menlo Park

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*Pam*  
City Clerk's Office | ext. 6621



# 2017 Calendar

| January               |    |    |    |    |     |    |
|-----------------------|----|----|----|----|-----|----|
| Su                    | Mo | Tu | We | Th | Fr  | Sa |
| 1                     | 2  | 3  | 4  | 5  | 6   | 7  |
| 8                     | 9  | 10 | 11 | 12 | 13  | 14 |
| 15                    | 16 | 17 | 18 | 19 | 20  | 21 |
| 22                    | 23 | 24 | 25 | 26 | 27* | 28 |
| 29                    | 30 | 31 |    |    |     |    |
| *Council Goal Setting |    |    |    |    |     |    |

| February |    |    |    |    |    |    |
|----------|----|----|----|----|----|----|
| Su       | Mo | Tu | We | Th | Fr | Sa |
|          |    |    | 1  | 2  | 3  | 4  |
| 5        | 6  | 7  | 8  | 9  | 10 | 11 |
| 12       | 13 | 14 | 15 | 16 | 17 | 18 |
| 19       | 20 | 21 | 22 | 23 | 24 | 25 |
| 26       | 27 | 28 |    |    |    |    |

| March |    |    |    |    |    |    |
|-------|----|----|----|----|----|----|
| Su    | Mo | Tu | We | Th | Fr | Sa |
|       |    |    | 1  | 2  | 3  | 4  |
| 5     | 6  | 7  | 8  | 9  | 10 | 11 |
| 12    | 13 | 14 | 15 | 16 | 17 | 18 |
| 19    | 20 | 21 | 22 | 23 | 24 | 25 |
| 26    | 27 | 28 | 29 | 30 | 31 |    |

| April |    |    |    |    |    |    |
|-------|----|----|----|----|----|----|
| Su    | Mo | Tu | We | Th | Fr | Sa |
|       |    |    |    |    |    | 1  |
| 2     | 3  | 4  | 5  | 6  | 7  | 8  |
| 9     | 10 | 11 | 12 | 13 | 14 | 15 |
| 16    | 17 | 18 | 19 | 20 | 21 | 22 |
| 23    | 24 | 25 | 26 | 27 | 28 | 29 |
| 30    |    |    |    |    |    |    |

| May                            |    |    |    |    |    |    |
|--------------------------------|----|----|----|----|----|----|
| Su                             | Mo | Tu | We | Th | Fr | Sa |
|                                | 1  | 2  | 3  | 4  | 5  | 6  |
| 7                              | 8  | 9  | 10 | 11 | 12 | 13 |
| 14                             | 15 | 16 | 17 | 18 | 19 | 20 |
| 21                             | 22 | 23 | 24 | 25 | 26 | 27 |
| 28                             | 29 | 30 | 31 |    |    |    |
| *Commission Appreciation Event |    |    |    |    |    |    |

| June |    |    |    |    |    |    |
|------|----|----|----|----|----|----|
| Su   | Mo | Tu | We | Th | Fr | Sa |
|      |    |    |    | 1  | 2  | 3  |
| 4    | 5  | 6  | 7  | 8  | 9  | 10 |
| 11   | 12 | 13 | 14 | 15 | 16 | 17 |
| 18   | 19 | 20 | 21 | 22 | 23 | 24 |
| 25   | 26 | 27 | 28 | 29 | 30 |    |

| July |    |    |    |    |    |    |
|------|----|----|----|----|----|----|
| Su   | Mo | Tu | We | Th | Fr | Sa |
|      |    |    |    |    |    | 1  |
| 2    | 3  | 4  | 5  | 6  | 7  | 8  |
| 9    | 10 | 11 | 12 | 13 | 14 | 15 |
| 16   | 17 | 18 | 19 | 20 | 21 | 22 |
| 23   | 24 | 25 | 26 | 27 | 28 | 29 |
| 30   | 31 |    |    |    |    |    |

| August                     |    |     |    |    |    |    |
|----------------------------|----|-----|----|----|----|----|
| Su                         | Mo | Tu  | We | Th | Fr | Sa |
|                            |    | 1   | 2  | 3  | 4  | 5  |
| 6                          | 7  | 8   | 9  | 10 | 11 | 12 |
| 13                         | 14 | 15  | 16 | 17 | 18 | 19 |
| 20                         | 21 | 22* | 23 | 24 | 25 | 26 |
| 27                         | 28 | 29  | 30 | 31 |    |    |
| *Tentative, only if needed |    |     |    |    |    |    |

| September |    |    |    |    |    |    |
|-----------|----|----|----|----|----|----|
| Su        | Mo | Tu | We | Th | Fr | Sa |
|           |    |    |    |    | 1  | 2  |
| 3         | 4  | 5  | 6  | 7  | 8  | 9  |
| 10        | 11 | 12 | 13 | 14 | 15 | 16 |
| 17        | 18 | 19 | 20 | 21 | 22 | 23 |
| 24        | 25 | 26 | 27 | 28 | 29 | 30 |

| October |    |    |    |    |    |    |
|---------|----|----|----|----|----|----|
| Su      | Mo | Tu | We | Th | Fr | Sa |
| 1       | 2  | 3  | 4  | 5  | 6  | 7  |
| 8       | 9  | 10 | 11 | 12 | 13 | 14 |
| 15      | 16 | 17 | 18 | 19 | 20 | 21 |
| 22      | 23 | 24 | 25 | 26 | 27 | 28 |
| 29      | 30 | 31 |    |    |    |    |

| November |    |    |    |    |    |    |
|----------|----|----|----|----|----|----|
| Su       | Mo | Tu | We | Th | Fr | Sa |
|          |    |    | 1  | 2  | 3  | 4  |
| 5        | 6  | 7  | 8  | 9  | 10 | 11 |
| 12       | 13 | 14 | 15 | 16 | 17 | 18 |
| 19       | 20 | 21 | 22 | 23 | 24 | 25 |
| 26       | 27 | 28 | 29 | 30 |    |    |

| December |    |    |    |    |    |    |
|----------|----|----|----|----|----|----|
| Su       | Mo | Tu | We | Th | Fr | Sa |
|          |    |    |    |    | 1  | 2  |
| 3        | 4  | 5  | 6  | 7  | 8  | 9  |
| 10       | 11 | 12 | 13 | 14 | 15 | 16 |
| 17       | 18 | 19 | 20 | 21 | 22 | 23 |
| 24       | 25 | 26 | 27 | 28 | 29 | 30 |
| 31       |    |    |    |    |    |    |

 Holiday  
 City Hall Closure  
 Council Meeting



**From:** Aguilar, Pamela I  
**To:** David Affeld; michael@massmeans.com  
**Cc:** grubens@adcl.com; McClure, William; Bertini, David C  
**Subject:** RE: Notice of Zeleny Appeal Hearing - Menlo Park  
**Date:** Thursday, December 15, 2016 12:41:00 PM

---

Hello gentlemen,  
I just wanted to update you that the City Council agendas for our January 10th and 24th meetings have filled up, and we are now proposing to hold Mr. Zeleny's appeal hearing on Tuesday, February 7<sup>th</sup>.

Please reply by Wednesday, 12/21, and confirm if this date fits your schedule.

Just a note that City Hall offices will be closed from 12/23 -1/1/2017.

Thank you.

*Pam Aguilar*  
City Clerk  
City of Menlo Park  
701 Laurel Street  
Menlo Park, CA 94025  
650.330.6620 | [piaguilar@menlopark.org](mailto:piaguilar@menlopark.org)

---

**From:** Aguilar, Pamela I  
**Sent:** Monday, December 12, 2016 12:04 PM  
**To:** 'David Affeld'; 'michael@massmeans.com'  
**Cc:** [grubens@adcl.com](mailto:grubens@adcl.com)  
**Subject:** RE: Notice of Zeleny Appeal Hearing - Menlo Park

Hello, attached are the approved Council meeting dates for 2017. Please advise when we can reschedule the hearing.

Thank you!

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**From:** [Aguilar, Pamela I](#)  
**To:** [David Affeld; michael@massmeans.com](#)  
**Cc:** [grubens@adcl.com](#); [McClure, William](#); [Bertini, David C](#)  
**Subject:** RE: Notice of Zeleny Appeal Hearing - Menlo Park  
**Date:** Wednesday, January 04, 2017 10:48:00 AM  
**Attachments:** [2017 council mtgs - approved.xls](#)

---

Hello Gentlemen,

Awaiting your reply. February 28<sup>th</sup> is not available at this time. Please also consider the March meeting dates.

Also resending the Council calendar for your convenience.

*Pam Aguilar*  
City Clerk  
City of Menlo Park  
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Menlo Park, CA 94025  
650.330.6620 | [piaguilar@menlopark.org](mailto:piaguilar@menlopark.org)

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**Cc:** [grubens@adcl.com](mailto:grubens@adcl.com); [McClure, William](#); [Bertini, David C](#)  
**Subject:** RE: Notice of Zeleny Appeal Hearing - Menlo Park

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**From:** Aguilar, Pamela I  
**Sent:** Monday, December 12, 2016 12:04 PM



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**To:** David Affeld; [michael@massmeans.com](mailto:michael@massmeans.com)  
**Cc:** [grubens@adcl.com](mailto:grubens@adcl.com); McClure, William; Bertini, David C  
**Subject:** RE: Notice of Zeleny Appeal Hearing - Menlo Park  
**Date:** Wednesday, January 11, 2017 5:12:00 PM

---

Gentlemen,  
This is just to update you that our City Council meeting agendas are now filling up and February meeting dates are unavailable for a hearing.

You were previously sent the Council's meeting calendar; at this point, our office will wait to hear from you as to a hearing date.

Thank you.

Pam Aguilar  
City Clerk  
City of Menlo Park  
701 Laurel Street  
Menlo Park, CA 94025  
650.330.6620 | [piaguilar@menlopark.org](mailto:piaguilar@menlopark.org)

---

**From:** Aguilar, Pamela I  
**Sent:** Wednesday, January 04, 2017 10:49 AM  
**To:** 'David Affeld'; 'michael@massmeans.com'  
**Cc:** [grubens@adcl.com](mailto:grubens@adcl.com); McClure, William; Bertini, David C  
**Subject:** RE: Notice of Zeleny Appeal Hearing - Menlo Park

Hello Gentlemen,  
Awaiting your reply. February 28<sup>th</sup> is not available at this time. Please also consider the March meeting dates.

Also resending the Council calendar for your convenience.

Pam Aguilar  
City Clerk  
City of Menlo Park  
701 Laurel Street  
Menlo Park, CA 94025  
650.330.6620 | [piaguilar@menlopark.org](mailto:piaguilar@menlopark.org)

**From:** Aguilar, Pamela I  
**Sent:** Thursday, December 15, 2016 12:41 PM  
**To:** David Affeld; [michael@massmeans.com](mailto:michael@massmeans.com)





**From:** [Michael Zeleny](#)  
**To:** [Aguilar, Pamela I](#)  
**Cc:** [David Affeld; grubens@dadd.com; McClure, William; Bertini, David C](#)  
**Subject:** Re: Notice of Zeleny Appeal Hearing - Menlo Park  
**Date:** Friday, February 17, 2017 2:18:37 AM

---

Dear Ms Aguilar,

I apologize for a lengthy delay in responding. Please advise on the currently available hearing dates.

---

[Michael@massmeans.com](#) [Zeleny@post.harvard.edu](#) | [larvatus.livejournal.com](#) | [subrah.com](#)  
7576 Willow Glen Rd, Los Angeles, CA 90046, U.S.A. | voice:323.363.1860 |  
fax:323.410.2373

**Wronged by the high and mighty? Cut them down to size with legally safe and ethically sound degradation of unworthy moguls and scrofulous celebrities.**

On Wed, Jan 11, 2017 at 5:12 PM, Aguilar, Pamela I <[piaguilar@menlopark.org](mailto:piaguilar@menlopark.org)> wrote:

Gentlemen,

This is just to update you that our City Council meeting agendas are now filling up and February meeting dates are unavailable for a hearing.

You were previously sent the Council's meeting calendar; at this point, our office will wait to hear from you as to a hearing date.

Thank you.

*Pam Aguilar*

City Clerk

City of Menlo Park

701 Laurel Street

Menlo Park, CA 94025

[650.330.6620](tel:650.330.6620) | [piaguilar@menlopark.org](mailto:piaguilar@menlopark.org)



**From:** Aguilar, Pamela I  
**To:** Michael Zeleny  
**Cc:** David Affeld; grubens@adcl.com; McClure, William; Bertini, David C  
**Subject:** RE: Notice of Zeleny Appeal Hearing - Menlo Park  
**Date:** Thursday, February 23, 2017 5:47:00 PM

---

Mr. Zeleny,

Your appeal will tentatively be scheduled for the April 4<sup>th</sup> Council meeting pending approval by the Mayor. Our office will send you a confirming email.

Pam Aguilar  
City Clerk  
City of Menlo Park  
701 Laurel Street  
Menlo Park, CA 94025  
650.330.6620 | piaguilar@menlopark.org

**From:** Michael Zeleny [mailto:michael@massmeans.com]  
**Sent:** Friday, February 17, 2017 2:19 AM  
**To:** Aguilar, Pamela I  
**Cc:** David Affeld; grubens@adcl.com; McClure, William; Bertini, David C  
**Subject:** Re: Notice of Zeleny Appeal Hearing - Menlo Park

Dear Ms Aguilar,

I apologize for a lengthy delay in responding. Please advise on the currently available hearing dates.

---

[michael@massmeans.com](mailto:michael@massmeans.com) | [Zeleny@post.harvard.edu](mailto:Zeleny@post.harvard.edu) | [larvatus.livejournal.com](http://larvatus.livejournal.com) | [subrah.com](http://subrah.com)  
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Thank you.



**From:** [Michael Zeleny](#)  
**To:** [Aguilar, Pamela I](#)  
**Cc:** [David Affeld; grubens@adcl.com; McClure, William; Bertini, David C](#)  
**Subject:** Re: Notice of Zeleny Appeal Hearing - Menlo Park  
**Date:** Friday, February 24, 2017 12:09:00 AM

---

Dear Mr Aguilar,

Thank you for your response. Would it be possible to set an earlier date? My wife is due to give birth on April 18, so I would prefer not to venture away from home two weeks prior.

---

[Michael@massmeans.com](mailto:Michael@massmeans.com) | [Zeleny@post.harvard.edu](mailto:Zeleny@post.harvard.edu) | [laryntus.livejournal.com](http://laryntus.livejournal.com) | [subrah.com](http://subrah.com)  
7576 Willow Glen Rd, Los Angeles, CA 90046, U.S.A. | voice:323.363.1860 |  
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Pam Aguilar

City Clerk

City of Menlo Park

701 Laurel Street

Menlo Park, CA 94025

[650.330.6620](tel:650.330.6620) | [piaguilar@menlopark.org](mailto:piaguilar@menlopark.org)

---

**From:** Michael Zeleny [mailto:[michael@massmeans.com](mailto:michael@massmeans.com)]  
**Sent:** Friday, February 17, 2017 2:19 AM  
**To:** Aguilar, Pamela I  
**Cc:** David Affeld; [grubens@adcl.com](mailto:grubens@adcl.com); McClure, William; Bertini, David C



**From:** [Aguilar, Pamela I](#)  
**To:** [Michael Zeleny](#)  
**Cc:** [David Affeld](#); [grubens@adcl.com](#); [McClure, William](#); [Bertini, David C](#)  
**Subject:** RE: Notice of Zeleny Appeal Hearing - Menlo Park  
**Date:** Wednesday, March 15, 2017 3:57:00 PM

---

Mr. Zeleny,

At this point, the City can accommodate your appeal hearing on Tuesday, March 28<sup>th</sup>. However, please be aware that the City Council meeting begins at 7:00pm and there are already several items on the agenda that may take considerable time. As a result, your appeal may not be heard until later in the evening, possibly at 10pm. Also at this point, April 4<sup>th</sup> is no longer an option as that agenda is now completely full.

Please respond with confirmation that you can be present on March 28<sup>th</sup>.

Thank you.

Pam Aguilar  
City Clerk  
City of Menlo Park  
701 Laurel Street  
Menlo Park, CA 94025  
650.330.6620 | [piaguilar@menlopark.org](mailto:piaguilar@menlopark.org)

**From:** Michael Zeleny [<mailto:michael@massmeans.com>]  
**Sent:** Friday, February 24, 2017 12:09 AM  
**To:** Aguilar, Pamela I  
**Cc:** David Affeld; [grubens@adcl.com](#); McClure, William; Bertini, David C  
**Subject:** Re: Notice of Zeleny Appeal Hearing - Menlo Park

Dear Mr Aguilar,

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---

[Michael@massmeans.com](mailto:Michael@massmeans.com) | [Zeleny@post.harvard.edu](mailto:Zeleny@post.harvard.edu) | [larvalus.livejournal.com](http://larvalus.livejournal.com) | [subrah.com](http://subrah.com)  
7576 Willow Glen Rd, Los Angeles, CA 90046, U.S.A. | voice:323.363.1860 |  
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**From:** Aguilar, Pamela I  
**To:** Michael Zeleny  
**Cc:** David Affeld; grubens@adcl.com; McClure, William; Bertini, David C  
**Subject:** RE: Notice of Zeleny Appeal Hearing - Menlo Park  
**Date:** Monday, March 20, 2017 12:12:00 PM

---

Mr. Zeleny,  
Just a follow up. If the City does not hear back from you by 5 p.m. tomorrow, 3/21, we will remove your appeal hearing from the Council agenda for the 3/28 meeting.

*Pam Aguilar*  
City Clerk  
City of Menlo Park  
701 Laurel Street  
Menlo Park, CA 94025  
650.330.6620 | [piaguilar@menlopark.org](mailto:piaguilar@menlopark.org)

---

**From:** Aguilar, Pamela I  
**Sent:** Wednesday, March 15, 2017 3:57 PM  
**To:** 'Michael Zeleny'  
**Cc:** David Affeld; grubens@adcl.com; McClure, William; Bertini, David C  
**Subject:** RE: Notice of Zeleny Appeal Hearing - Menlo Park

Mr. Zeleny,  
At this point, the City can accommodate your appeal hearing on Tuesday, March 28<sup>th</sup>. However, please be aware that the City Council meeting begins at 7:00pm and there are already several items on the agenda that may take considerable time. As a result, your appeal may not be heard until later in the evening, possibly at 10pm. Also at this point, April 4<sup>th</sup> is no longer an option as that agenda is now completely full.

Please respond with confirmation that you can be present on March 28<sup>th</sup>.

Thank you.

*Pam Aguilar*  
City Clerk  
City of Menlo Park  
701 Laurel Street  
Menlo Park, CA 94025  
650.330.6620 | [piaguilar@menlopark.org](mailto:piaguilar@menlopark.org)

**From:** Michael Zeleny [[mailto:michael@massmeans.com](mailto:mailto:michael@massmeans.com)]  
**Sent:** Friday, February 24, 2017 12:09 AM  
**To:** Aguilar, Pamela I  
**Cc:** David Affeld; [grubens@adcl.com](mailto:grubens@adcl.com); McClure, William; Bertini, David C



**From:** Aguilar, Pamela I  
**To:** Michael Zeleny  
**Cc:** David Affeld; grubens@adcl.com; McClure, William; Bertini, David C  
**Subject:** RE: Notice of Zeleny Appeal Hearing - Menlo Park  
**Date:** Wednesday, March 22, 2017 3:01:00 PM

---

Mr. Zeleny,

This confirms that your appeal hearing will be removed from the City Council's March 28<sup>th</sup> meeting agenda. Our office will communicate with you within the coming week regarding next steps.

Sincerely,

*Pam Aguilar*  
City Clerk  
City of Menlo Park  
701 Laurel Street  
Menlo Park, CA 94025  
650.330.6620 | [piaguilar@menlopark.org](mailto:piaguilar@menlopark.org)

---

**From:** Aguilar, Pamela I  
**Sent:** Monday, March 20, 2017 12:13 PM  
**To:** 'Michael Zeleny'  
**Cc:** 'David Affeld'; 'grubens@adcl.com'; McClure, William; Bertini, David C  
**Subject:** RE: Notice of Zeleny Appeal Hearing - Menlo Park  
**Importance:** High

Mr. Zeleny,

Just a follow up. If the City does not hear back from you by 5 p.m. tomorrow, 3/21, we will remove your appeal hearing from the Council agenda for the 3/28 meeting.

*Pam Aguilar*  
City Clerk  
City of Menlo Park  
701 Laurel Street  
Menlo Park, CA 94025  
650.330.6620 | [piaguilar@menlopark.org](mailto:piaguilar@menlopark.org)

---

**From:** Aguilar, Pamela I  
**Sent:** Wednesday, March 15, 2017 3:57 PM  
**To:** 'Michael Zeleny'  
**Cc:** David Affeld; [grubens@adcl.com](mailto:grubens@adcl.com); McClure, William; Bertini, David C  
**Subject:** RE: Notice of Zeleny Appeal Hearing - Menlo Park



From: Michael Zeleny  
To: Aguilar, Pamela I  
Cc: David Affeld; gribens@adcl.com; McClure, William; Bertini, David C  
Subject: Re: Notice of Zeleny Appeal Hearing - Menlo Park  
Date: Monday, March 27, 2017 1:34:04 PM

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Thanks for your continued assistance in this matter. Due to the state of my wife's pregnancy, I am unable to travel till after she gives birth in about three weeks. In the meantime, I would appreciate receiving your copy of the official transcript of our meeting on 11 August 2016. For your records, I am forwarding a copy of my recording.

 Hearing 11 August 2016 01.wav

 Hearing 11 August 2016 02.wav

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Michael@massmeans.com Zeleny@post.harvard.edu | laryms.livejournal.com | subrah.com  
7576 Willow Glen Rd, Los Angeles, CA 90046, U.S.A. | voice:323.363.1860 |  
fax:323.410.2373

**Wronged by the high and mighty? Cut them down to size with legally safe and ethically sound degradation of unworthy moguls and scrofulous celebrities.**

On Wed, Mar 22, 2017 at 3:01 PM, Aguilar, Pamela I <[piaguilar@menlopark.org](mailto:piaguilar@menlopark.org)> wrote:

Mr. Zeleny,

This confirms that your appeal hearing will be removed from the City Council's March 28<sup>th</sup> meeting agenda. Our office will communicate with you within the coming week regarding next steps.

Sincerely,

Pam Aguilar

City Clerk

City of Menlo Park

701 Laurel Street

Menlo Park, CA 94025

650.330.6620 | [piaguilar@menlopark.org](mailto:piaguilar@menlopark.org)



**From:** [Aguilar, Pamela J](#)  
**To:** [Michael Zeleny](#); [David Affeld](#)  
**Cc:** [grubens@adcl.com](#); [Harada, Jelena V](#)  
**Subject:** Notice of Public Hearing - August 29, 2017 date certain  
**Date:** Tuesday, June 20, 2017 1:55:00 PM  
**Attachments:** [Zeleny letter 062017 Final.pdf](#)  
[Notice of Appeal Zeleny June 2017.pdf](#)

---

Mr. Zeleny,

Attached is correspondence and a Notice of Public Hearing advising you of the date of your appeal hearing, which is now scheduled for Tuesday, August 29, 2017. These items are also being sent to you via US mail.

Thank you for your attention to this matter.

Sincerely,

*Pam Aguilar*  
City Clerk  
City of Menlo Park  
701 Laurel Street  
Menlo Park, CA 94025  
650.330.6620 | [piaguilar@menlopark.org](mailto:piaguilar@menlopark.org)

City Clerk's Office



June 20, 2017

Michael Zeleny  
7576 Willow Glen Road  
Los Angeles, CA 90046

Sent via email and U.S. mail

**RE: Notice of Public Hearing On Appeal**

Dear Mr. Zeleny,

Attached you will find the notice of appeal you requested on September 16, 2016 via email. Your appeal was initially set to be heard on October 25, 2016. However, the City received a request for a continuance from your attorney based on personal reasons. Your attorney asked for dates in November, but by then the City Council agendas were full for the remainder of the calendar year.

In an effort to ensure that your appeal could be set as promptly as possible, the City Clerk's office sent you a notice on December 12, 2016 with a spreadsheet showing available dates in 2017. Having not heard a response, I followed up on January 11, 2017. I next heard from you on February 17, 2017, when you requested available hearing dates. I responded that the April 4, 2017 City Council meeting was available. You indicated that you were unavailable on the April 4, 2017 date, again for personal reasons.

After review of City staff and special counsel calendar's and availability, the City has selected Tuesday, August 29, 2017 as the date that your appeal will be considered. There will be no additional dates selected or continuances of this date, with this date as your opportunity to present your appeal.

Sincerely,

Pamela Aguilar  
City Clerk

cc: Greg Rubens, Esq. via email  
David Affeld, Esq. via email





**PUBLIC HEARING NOTICE**

Appeal to the City Council

NOTICE IS HEREBY GIVEN that the City Council of the City of Menlo Park, California, will hold a Public Hearing to consider an appeal submitted by Michael Zeleny regarding the City Manager's denial of the appeal of the application for a Special Event Permit dated September 12, 2016.

NOTICE IS HEREBY FURTHER GIVEN that the City Council of the City of Menlo Park will hold this Public Hearing on Tuesday, August 29, 2017, at 7:00 p.m., or as near as possible thereafter, in the City Council Chambers of the City of Menlo Park located at 701 Laurel Street, Menlo Park, California, at which time and place interested persons may appear and be heard on the matter.

NOTICE IS HEREBY FURTHER GIVEN that if you challenge this matter in court, you may be limited to raising only those issues you or someone else raised at the Public Hearing described in this notice, or in written correspondence delivered to the City of Menlo Park at, or prior to, the Public Hearing.

DATED: Dated: June 20, 2017

Jelena Harada, Deputy City Clerk

Published in the Daily News on August 11, 2017